

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
MUR 7116 ) DISMISSAL AND  
Ronald E. Russell ) CASE CLOSURE UNDER THE ELA  
Russell for Congress ) ENFORCEMENT PRIORITY  
and Royette Russell as treasurer ) SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include without limitation an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances or, where the record indicates that no violation of the Act has occurred, to make no reason to believe findings. The Office of General Counsel has determined that MUR 7116 should not be referred to the Alternative Dispute Resolution Office.<sup>1</sup>

For the reasons set forth below, the Office of General Counsel recommends that the Commission dismiss the allegations that Ronald E. Russell violated 52 U.S.C. § 30102(e)(1) by failing to file a Statement of Candidacy within fifteen days of becoming a candidate.<sup>2</sup> Additionally,

<sup>1</sup> Complaint Filed: August 2, 2016. Response Filed: October 3, 2016.

<sup>2</sup> Russell was an unsuccessful candidate in the 2016 Democratic primary for Delegate to Congress from the United States Virgin Islands.

1 this Office recommends that the Commission dismiss the allegations that Russell for Congress and  
2 Royette Russell in her official capacity as treasurer, (collectively the "Committee") violated  
3 52 U.S.C. § 30103(a) by failing to timely file a Statement of Organization within ten days of being  
4 designated as the principal campaign committee; 52 U.S.C. § 30102(a) by accepting contributions  
5 and making expenditures prior to designating a treasurer; and 52 U.S.C. § 30104(a)(2) by failing to  
6 timely file its 2016 July Quarterly and Pre-Primary election reports.

7 The Complainant claims that Russell was "vigorously campaigning" for months in the  
8 Democratic primary election for Delegate from the United States Virgin Islands. Compl. at 1-2.  
9 The Complaint does not provide specific information regarding contributions or expenditures;  
10 however, it identifies Russell's media activity.<sup>3</sup> *Id.* at 2. Thus, the Complaint concludes that "it is  
11 financially impossible" that, as of August 1, 2016, Russell had not crossed the \$5,000 threshold for  
12 registering as a candidate. *Id.* at 4-5.

13 The Committee admits that Russell began campaigning in June 2016 for the August 6, 2016,  
14 primary election, but that he "did not engage in all" of the activities referred to in the Complaint  
15 before reaching the \$5,000 threshold. Resp. at 1-2. The Committee admits it passed the \$5,000  
16 threshold on or about June 15, 2016, and that Russell registered as a candidate on August 2, 2016.

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<sup>3</sup> The Complaint provides the URL address for the sample primary ballot indicating Russell's candidacy. *Id.* at 1. The Complaint also alleges that Russell engaged in "voluminous radio activity" of at least eight campaign advertisements per day, issued press releases, and participated in paid radio talk shows. *Id.* at 2. The Complaint identifies Russell's campaign website ([www.ronaldrussellforcongress.com](http://www.ronaldrussellforcongress.com)), Facebook page ([www.facebook.com/ronaldrussellforcongress](https://www.facebook.com/ronaldrussellforcongress)), and YouTube channel ([www.youtube.com/channel/UCihk3QfpwurJ44icD0JBK5w](https://www.youtube.com/channel/UCihk3QfpwurJ44icD0JBK5w)). *Id.* The Committee's YouTube channel, titled "Ronald Russell for Congress 2016," includes four videos, two of which were posted on July 20, 2016. *See id.* One of the July 20, 2016 videos includes, *inter alia*, an image of Russell with the phrase "Russell for Congress." *See id.* The Committee's Facebook page ("Ronald Russell for Congress 2016") includes posts referring to Russell's candidacy in June, July, and August of 2016. *See id.* The earliest post appears to have occurred on June 3, 2016, when the primary election was noted as an event on the Committee's Facebook page. *See id.* Other posts from July 2016 include references to radio appearances and press releases and a post advocating for Russell's candidacy, which noted, *inter alia*, "RUSSELL FOR DELEGATE 2016" and "AUGUST 6, 2016 . . . VOTE NUMBER ONE." *See id.*

1 *Id.* at 2. The Committee also states that it filed 48-Hour Contribution Notices on August 3, 2016,  
2 and its July Quarterly Report on August 2, 2016.<sup>4</sup> *Id.*

3 Under the Act and Commission regulations, an individual becomes a candidate for federal  
4 office when he or she receives contributions or makes expenditures in excess of \$5,000.<sup>5</sup>  
5 Within fifteen days of becoming a candidate, the candidate must designate a principal campaign  
6 committee by filing a Statement of Candidacy.<sup>6</sup> The principal campaign committee must then file a  
7 Statement of Organization no later than ten days after designation by the candidate.<sup>7</sup> When filing  
8 the first report due after registering as a political committee, a principal campaign committee must  
9 disclose all financial activity that occurred before registration and before the individual became a  
10 candidate, beginning with the first date of activity through the end of the current reporting period.<sup>8</sup>

11 The Committee concedes that Russell became a candidate on or about June 15, 2016, but he  
12 and the Committee did not file Statements of Candidacy and Organization until August 2, 2016,  
13 which was 33 and 23 days late, respectively.<sup>9</sup> The Committee also untimely filed its 2016 July

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<sup>4</sup> The Committee further asserts that it complied with its disclosure requirements as of August 2, 2016; that the Complainant has violated campaign finance laws and regulations; that the Respondent is no longer a candidate since he lost the primary election; and that the Complaint is moot. Resp. at 2. The Committee also includes a Counterclaim in its Response. *Id.* at 3. These allegations are not within the Commission's jurisdiction and, therefore, the Office of General Counsel makes no recommendation regarding the alleged activity.

<sup>5</sup> 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3.

<sup>6</sup> 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

<sup>7</sup> 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(a). Further, in an election year, a principal campaign committee must file quarterly reports on April 15, July 15, and October 15 and January 31. 52 U.S.C. § 30104(a)(2)(A)(iii); 11 C.F.R. § 104.5(a)(1). In addition, pre-election reports must be filed no later than 12 days before the primary and general elections in which the candidate is running for office. 52 U.S.C. § 30104(a)(2)(A)(i); 11 C.F.R. § 104.5(a)(2).

<sup>8</sup> See 11 C.F.R. §§ 101.2(b), 101.3, 104.3(a)-(b).

<sup>9</sup> The Reports and Analysis Division sent a Request for Additional Information to the Committee on August 14, 2016, because the Committee failed to identify the office sought (state and congressional district) in its Statement of Organization. Russell amended his Statement of Candidacy to identify the office sought.

1 Quarterly Report on August 2, 2016, in which it reported contributions totaling \$600, expenditures  
2 totaling \$3,781.19, and an undated loan from Russell in the amount of \$4,000.<sup>10</sup>

3 Russell admits he became a candidate on June 15, 2016. Thus, he should have filed a  
4 Statement of Candidacy by June 30, 2016, and the Committee should have filed its Statement of  
5 Organization within ten days of that filing. The Committee also should have filed the 2016 July  
6 Quarterly Report by July 15, 2016. Finally, the Committee should have filed a 2016 Pre-Primary  
7 Report twelve days before the primary election, but did not.

8 However, it appears that the failures to file the Statement of Candidacy, Statement of  
9 Organization, and 2016 July Quarterly Report timely were promptly remedied. Although the  
10 Committee failed to file a Pre-Primary Report, it did file 48-Hour Notices before the primary  
11 election. Given the Committee's filings prior to the election and the limited scope of the activity  
12 not reported timely, and the Commission's priorities, relative to other matters pending on the  
13 Enforcement docket, the Office of General Counsel believes the Commission should exercise its  
14 prosecutorial discretion and dismiss this matter pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985).  
15 Additionally, the Office of General Counsel recommends that the Commission remind the  
16 Committee of its obligation to file pre-election reports, approve the attached Factual & Legal  
17 Analysis and the appropriate letters, and close the file as to all of the respondents.

<sup>10</sup> The Committee filed two 48 Hour Notices on August 3, 2016. One of the Notices includes a \$7,770 contribution from Russell to the Committee on July 25, 2016. The remaining contributions listed on the 48-Hour Notices are dated August 1, 2016 and August 2, 2016. One contribution in the amount of \$1,000 from Ryan Greene was not dated and the mailing address and zip code for Mr. Greene were not provided.

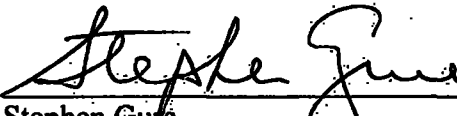
**RECOMMENDATIONS**

1. Dismiss MUR 7116, pursuant to the Commission's prosecutorial discretion;
2. Remind Russell for Congress and Royette Russell, in her official capacity as treasurer of the requirement for candidate committees to file pre-election reports pursuant to 52 U.S.C. § 30104;
3. Approve the attached Factual & Legal Analysis and the appropriate letters; and
4. Close the file as to all Respondents.


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Date